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FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR: 5408

DATES RECEIVED: February 2, 2004

February 5, 2004 (First Amended)

February 9, 2004 (Second Amended)

DATE OF NOTIFICATION: February 10, 2004

February 10, 2005¹

DATE ACTIVATED: March 25, 2004²

EXPIRATION OF STATUTE OF
LIMITATIONS: March 12, 2008

COMPLAINANT:

National Legal and Policy Center

RESPONDENTS:

Reverend Alfred C. Sharpton
Sharpton 2004 (f/k/a Rev. Al Sharpton Presidential
Exploratory Committee) and Andrew A. Rivera, in his
official capacity as treasurer
National Action Network, Incorporated
Roger Stone
LaVan Hawkins
Wendy Hawkins

RELEVANT STATUTES:

2 U.S.C. § 434(a)
2 U.S.C. § 434(b)
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(f)
2 U.S.C. § 441b
11 C.F.R. § 100.77
11 C.F.R. § 100.93(b)(2)
11 C.F.R. § 104.14(d)
11 C.F.R. § 106.3
11 C.F.R. § 111.4(d)
11 C.F.R. § 9033
11 C.F.R. § 9034.7
11 C.F.R. § 9035.2
11 C.F.R. § 9039.3

¹ Stone was not initially named as a respondent in this matter; therefore, he did not receive a notification of the complaint in 2004. Upon re-evaluation of the complaint, this Office sent Stone a belated notification.

² The processing of this matter was held in partial abeyance during the pendency of public financing proceedings involving Sharpton 2004.

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INTERNAL REPORTS CHECKED: **Sharpton 2004 Disclosure Reports**
 MUR 5363 File
 Submissions Made in Connection with Sharpton
 2004 Application for Public Financing

FEDERAL AGENCIES CHECKED: _____

I. INTRODUCTION

 The complaint and amended complaints in this matter allege that Reverend Alfred C. Sharpton and his principal campaign committee, Sharpton 2004 (f/k/a the Rev. Al Sharpton Presidential Exploratory Committee) received and failed to report a variety of prohibited and excessive in-kind contributions between 2001 and 2004.⁴ The primary focus of the complaint is an allegation that the National Action Network, Inc., a non-profit corporation founded and run by Sharpton, was used as a vehicle to subsidize a wide range of campaign staff and travel expenses. After evaluating all available information, including materials submitted by Sharpton 2004 in connection with its application for and suspension from eligibility for public financing, the Office of the General Counsel recommends that the Commission find reason to believe that Alfred C. Sharpton, Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, the National Action Network, Inc., Roger Stone and Sharpton 2004 donors LaVan and Wendy Hawkins violated various provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

⁴ The vast majority of the events discussed in this Report occurred after the effective date of BCRA and its corresponding regulations. Therefore, this Report analyzes the relevant portions of the Act and its corresponding regulations, including those amendments implemented by BCRA, Pub. L. No. 107-155, and those regulations promulgated to implement the BCRA amendments.

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IL. BACKGROUND

A. Identities of Respondents and Related Principal Actors

1. *Reverend Alfred C. Sharpton and Sharpton 2004*

Sharpton was a candidate for the Democratic Party's nomination for President of the United States in the 2004 primary election. Sharpton's principal campaign committee is Sharpton 2004.⁵ Although he has never held public office, Sharpton has been a federal candidate on three prior occasions, having run in New York's Democratic primaries for the United States Senate in 1978, 1992 and 1994. Both prior to and during his presidential candidacy, Sharpton, who has a national reputation as a civil rights activist, served as President of the non-profit corporation, the National Action Network, Inc.

2. *National Action Network, Incorporated ("NAN")*

NAN, a domestic non-profit organization incorporated in the state of New York in 1994, was founded by Sharpton in 1991 as an outlet for his civil rights work. The organization appears to be focused on grassroots activity designed to speak out on civil and human rights issues. Sharpton has served as President of NAN since its founding. Between 2001 and 2004, Sharpton engaged in an extensive travel schedule that he purports was dedicated, at least in part, to NAN-related activity.

⁵ On April 29, 2003, Sharpton filed a Statement of Candidacy, designating Sharpton 2004 as his principal campaign committee. The Committee's then-treasurer also filed the Committee's first disclosure reports on that date. On January 21, 2004, Sharpton and the Committee entered into a Conciliation Agreement with the Commission in MUR 5363 admitting that Sharpton was a candidate at least as early as October 2002, yet failed to file his Statement of Candidacy, an Amended Statement of Organization, and two disclosure reports in a timely manner. See MUR 5363 Conciliation Agreement ¶¶ V.1-3. MUR 5363 did not take up the issue of whether the Committee's reports, once filed, disclosed all expenditures made during the time that Sharpton was "testing the waters" of his candidacy. See MUR 5363, 1st GCR at note 10.

1 3. ***Roger Stone***

2 Roger Stone is an experienced political consultant who reportedly helped Sharpton staff
3 his campaign and hire consultants for the Democratic Party primaries. Stone also reportedly
4 assisted Sharpton in his bid for presidential matching funds from the Commission, and served as
5 a general consultant to Sharpton during the campaign. It has been reported that Stone either
6 contributed or loaned more than \$200,000 to NAN during the pendency of the Sharpton
7 campaign and paid for Sharpton's travel expenses to various campaign-related events. *See*
8 Wayne Barrett, *Sleeping With the GOP*, VILLAGE VOICE, Feb. 5, 2004 (Attachment 1); *see also*
9 Wayne Barrett, *Sharpton's Cynical Campaign Choice*, VILLAGE VOICE, Feb. 11-17, 2004.

10 4. ***Shared Consultants***

11 Beginning in Fall 2003, a number of political consultants reportedly had concurrent
12 relationships with NAN and Sharpton 2004. Charles Halloran is the owner of Charles Halloran
13 Development, a political consulting firm based in Alexandria, Virginia. Halloran, reportedly at
14 the request or suggestion of Roger Stone, took over as Sharpton's campaign manager in
15 September 2003.⁶ Halloran then reportedly enlisted assistance for the campaign from Archer
16 Group, Inc., a consulting firm, and an individual named Elizabeth Burke. *Id.* Halloran is not a
17 named respondent in this matter.

18 Archer Group, Inc. is a San Francisco-based political consulting firm which provided
19 services to both NAN and Sharpton's campaign beginning in late September 2003. Archer

⁶ Sharpton 2004 disbursed \$10,000 in consulting fees to Halloran Development in January 2004 and approximately \$46,000 in reimbursement expenses between November 2003 and January 2004. Sharpton 2004's most recently filed disclosure report lists a \$65,000 debt to Charles Halloran Development for "campaign management consultant fees." *See* Sharpton 2004 Year-End Report, filed Jan. 31, 2005 at 13.

1 Group, Inc. was reportedly initially enlisted by Charles Halloran to design a voter registration
2 program for NAN in exchange for a \$20,000 per month fee. *Id.* However, Archer Group Inc.
3 reportedly began working primarily for Sharpton 2004 shortly after it was retained.⁷ *Id.* The two
4 Archer Group, Inc. executives working on the campaign were Michael Pitts, who was named
5 Sharpton's Deputy Campaign Manager in December 2003, and Ron Coleman.

6 Elizabeth Burke worked as a scheduler for the Sharpton campaign beginning in October
7 2003. Burke, who was reportedly brought into the campaign by Charles Halloran, has stated that
8 she was also paid a salary from NAN while she worked for the campaign, although her time was
9 fully devoted to the work of the campaign. *Id.*

10 Eddie Harris is a filmmaker who accompanied Reverend Sharpton on his travels between
11 2001-2004. Although Harris reportedly served as the Sharpton campaign's videographer,
12 Sharpton 2004 now claims that Harris' services were provided to NAN, not the campaign.

13 5. *LaVan and Wendy Hawkins*

14 LaVan Hawkins is the owner of Hawkins Food Group, Inc., a Detroit based corporation.
15 In early 2003, Sharpton attended a party at the home of LaVan Hawkins and his wife, Wendy
16 Hawkins, in Atlanta, Georgia that was reportedly a fundraiser for Sharpton's campaign. LaVan
17 and Wendy Hawkins each contributed the maximum \$2,000 to Sharpton in 2003. In addition,
18 Hawkins Food Group, Inc. paid Sharpton a \$25,000 consulting fee in 2003, although the nature

⁷ Sharpton 2004 disclosure reports show that Sharpton campaign paid Archer Group, Inc. a total of \$20,000 between December 2003 and January 2004 for campaign fieldwork, campaign logistics, and campaign consultants. Sharpton 2004's most recently filed disclosure report lists a debt of approximately \$26,000 to Archer Group/Michael Pitts for "campaign consultant/field operations." See Sharpton 2004 Year-End Report, filed Jan. 31, 2005 at 11.

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1 of the services provided by Sharpton to Hawkins Food Group, Inc. is unknown.⁷ See Alfred C.
2 Sharpton, Form SF278, Executive Branch Personnel Public Financial Disclosure Report, dated
3 June 30, 2003, Schedule A.

4 **B. The Sharpton Campaign**

5 Sharpton began paving the way for a potential presidential candidacy as early as August
6 2001.⁹ In February 2002, Sharpton reportedly commenced a "Getting to Know You Tour," and
7 traveled to New Hampshire and Iowa, but Sharpton 2004 reported no disbursements in
8 connection with this trip. Sharpton became a candidate, within the meaning of the Act, no later
9 than October 2002. See MUR 5363 Conciliation Agreement ¶ IV.10.

10 It appears that Sharpton traveled extensively during the early days of his campaign,
11 although the Committee reported no expenditures for travel taken during 2002. In early 2003
12 Sharpton traveled to Atlanta, Georgia to attend what was reported to be a lavish fundraiser for his
13 campaign at the home of LaVan and Wendy Hawkins. See Kevin Chappell, "How La-Van
14 Hawkins Rose From the Projects to a Private Jet and a Multi-Million-Dollar Empire," *Ebony*,
15 April 2003, p. 42. Sharpton traveled to the party from Detroit with Hawkins in Hawkins' private
16 jet, which he uses to commute between his business in Detroit, and his home in Atlanta.
17 Hawkins Resp. at 2. Sharpton 2004 reported no expenditures or in-kind contributions in
18 connection with this event.

⁹ On August 20, 2001 Sharpton announced that by November 2001 he would establish a presidential exploratory committee. In December 2001, Sharpton appeared at a conference in Atlanta entitled "The State of the Black World," during which he discussed his presidential aspirations and the formation of an exploratory committee for a possible campaign. Rob Borsellino, *Al Sharpton to Pay Political Visit*, *DES MOINES REGISTER*, Feb. 25, 2002.

1 In late 2003, Sharpton began conferring with political consultant Roger Stone. Sharpton
2 acknowledges that Stone, an established professional political consultant, assisted Sharpton's
3 campaign, particularly with its anticipated application for federal matching funds. See Attach. 1
4 at 1. After Stone began consulting with Sharpton, Charles Halloran became campaign manager
5 for Sharpton 2004 and hired consultants Elizabeth Burke and Archer Group, Inc. to provide
6 assistance to the campaign. Burke and Archer Group, Inc.'s consultants, who also received
7 compensation from NAN, reportedly worked exclusively on the campaign from Sharpton's New
8 York headquarters.

9 Sharpton asserts that he "undertook a great deal of non-campaign related activities on
10 behalf of NAN during the same period in which he was a presidential candidate." Sharpton 2004
11 Resp. to FEC Matching Funds Inquiry at 2 (Attachment 2). Archer Group, Inc. consultant Michael
12 Pitts has reportedly stated that these NAN trips were "commingled" with campaign trips. Attach.
13 1 at 4. Sharpton admits that Sharpton 2004's disclosure reports do not accurately reflect which
14 travel expenses incurred by Sharpton were campaign-related and which were not.¹⁰ Attach. 2 at 2.

15 **C. Sharpton 2004 Application for Public Financing**

16 On January 2, 2004, Sharpton and Sharpton 2004 applied for matching fund payments
17 under the Presidential Primary Matching Payment Account Act, 26 U.S.C. §§ 9031-9042. See 11
18 C.F.R. parts 9031-9039. The application included Sharpton's certification that he had not and
19 would not exceed the expenditure limitations at 26 U.S.C. § 9035 and 11 C.F.R. §§ 9035.1 and
20 9035.2, including the \$50,000 personal expenditure limitation.

¹⁰ The Committee claims that it has now conducted a detailed analysis of Sharpton's expense records and amended its disclosure reports accordingly. *Id.* Notwithstanding the claim, the Committee has not amended its reports to include disbursements for many trips that apparently included campaign appearances.

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1 The Commission qualified Sharpton as eligible to receive public funds and on March 11,
2 2004, certified an initial \$100,000 payment. However, the Committee's disclosure reports
3 revealed that Sharpton had made personal expenditures in the amount of \$47,821.13, and thus,
4 was extremely close to exceeding the \$50,000 personal expenditure limitation. Because
5 Sharpton had the practice of using his personal credit card to pay for campaign expenditures, the
6 Commission opened an investigation to resolve whether there were credit charges pending which
7 would result in Sharpton exceeding or having exceeded his \$50,000 personal expenditure
8 limitation.¹¹ See 26 U.S.C. § 9039(b).

9 After reviewing Sharpton 2004's disclosure reports, along with information produced in
10 the investigation, the Commission made an initial determination to suspend matching fund
11 payments to Sharpton because Sharpton had exceeded his personal expenditure limitation. On
12 April 21, 2004, Sharpton responded to the suspension by asserting that he had expended only
13 \$46,956.23 of his personal funds in connection with his campaign and that the Committee had
14 mistakenly reported large amounts of Sharpton's non-campaign related expenditures as campaign
15 expenditures.¹² However, the information provided to the Commission by the Committee
16 appeared to show that Sharpton knowingly and substantially exceeded the \$50,000 personal
17 expenditure limit by \$66,976 as of January 2, 2004. Therefore, the Commission made a final
18 determination to suspend matching fund payments to Sharpton and the Committee on April 29,
19 2004. See Statement of Reasons in Support of Final Determination to Suspend Matching Funds,

¹¹ See 11 C.F.R. § 9035.2(a)(2) (credit card charges count against a candidate's personal expenditure limitations to the extent that the full amount due, including any finance charge, is not paid within 60 days after the closing date of the billing statement on which the charges first appeared).

¹² In particular, Sharpton claimed that travel and salary expenses related to the travel of videographer Eddie Harris were mistakenly reported as campaign expenditures even though Harris accompanied Sharpton on behalf of NAN.

1 dated April 29, 2004. On May 14, 2004, the Commission determined that Sharpton and the
2 Committee must repay \$100,000 to the United States Treasury.¹³

3 **III. ANALYSIS**

4 Complainant's central allegation is that "Sharpton ran an off-the-books campaign in
5 which campaign expenses were paid by parties without the proper disclosure to the Federal
6 Election Commission and at times in apparent violation of campaign contribution limits and the
7 legal restriction against corporate contributions."¹⁴ MUR 5408, 2nd Am. Compl. at 2. The
8 available information supports the allegation that Sharpton's campaign was subsidized by various
9 unreported, excessive, and impermissible in-kind contributions to Sharpton 2004. Accordingly,
10 as detailed below, this Office recommends that the Commission find reason to believe that the
11 Sharpton Respondents, NAN, Roger Stone, LaVan Hawkins and Wendy Hawkins violated the
12 Act.

¹³ On July 16, 2004, Sharpton 2004 requested administrative review of the repayment determination and requested an oral hearing. The Commission approved the request and scheduled an oral hearing for September 29, 2004. One day prior to the scheduled hearing, Respondents requested a ninety-day postponement of the hearing. The Commission granted this request and rescheduled the hearing for December 1, 2004. Respondents subsequently requested another postponement. The Commission denied this request, and Respondents indicated that no representative would appear on December 1, 2004. The Commission is currently in the process of completing the administrative review based on the written submissions made by the Committee.

¹⁴ In separate responses to the complaints, Sharpton and NAN each argue that the complaint does not meet the procedural requirements contained in the Act's corresponding regulations. Sharpton argues that the complaint is insufficient because it is based on "no pertinent, first-hand facts." Sharpton Resp. at 2. NAN argues that the complaint does not provide sufficient information to support the allegations because it is based on a single newspaper article that is not credible. NAN Resp. at 1-2. The Act and its corresponding regulations clearly contemplate and allow complaints to be based on second-hand information contained in news accounts. Pursuant to 11 C.F.R. § 111.4(d)(2)-(3), a complaint that is not based on personal knowledge should be accompanied by an identification of the source of the information which gives rise to the complainant's belief in the truth of such statements and shall contain a clear and concise recitation of the facts which describe a violation of the statute or regulation. Because the complaint's allegations are specific and accompanied by the identification of a credible source of information, this Office finds Respondents' procedural arguments unpersuasive.

A. Unreported In-Kind Contributions

1. Travel Expenses

The complaint alleges, and the available information suggests, that Sharpton 2004 did not report all of the travel expenses Sharpton incurred in connection with his candidacy, including those made while he was "testing the waters," and that this campaign-related travel was subsidized by NAN in the form of shared events for which NAN picked up the entirety of Sharpton's travel costs. Second Am. Compl. at 2, 5; *see* 11 C.F.R. § 100.72(a)–(b). In addition, the First and Second Amended Complaints allege that political consultant Roger Stone charged \$18,000 of Sharpton's campaign-related travel expenses to his personal credit card without receiving reimbursement from Sharpton 2004.

Expenditures for travel relating to the campaign of a candidate seeking nomination for election to the office of President by any individual, including a candidate, shall be qualified campaign expenses and be reported by the candidate's authorized committee as an expenditure. 11 C.F.R. § 9034.7(a). If the trip is entirely campaign-related, the total cost of the trip shall be a qualified campaign expense and a reportable expenditure. 11 C.F.R. § 9034.7(b)(1).¹⁵ Furthermore, if an individual who had been "testing the waters" subsequently becomes a candidate, funds received or payments made for "testing the waters" are contributions and

¹⁵ Pursuant to 11 C.F.R. § 9034.7(b)(2), "For a trip that includes campaign and non-campaign related stops, that portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense and a reportable expenditure. Such portion shall be determined by calculating what the trip would have cost from the point of origin of the trip to the first campaign-related stop and from that stop to each subsequent campaign-related stop, back to point of origin. The calculation is based on commercial airfare rates at time of travel, and the committee is responsible for retaining documentation of these rates. If any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related. Campaign-related activity includes soliciting, making, or accepting contributions, and expressly advocating the election or defeat of the candidate. Other factors, including the setting, timing and statements or expressions of the purpose of an event and the substance of the remarks or speech made, will also be considered in determining whether a stop is campaign-related." Furthermore, "For each trip, an itinerary shall be prepared by the Committee and made available to the Commission for inspection. The itinerary shall show the time of arrival and departure and the type of event." 11 C.F.R. § 9034.7(b)(3).

1 expenditures subject to the reporting requirements of the Act. 11 C.F.R. §§ 100.72(a) and
2 100.131(a). Such contributions must be reported with the first report filed by the principal
3 campaign committee of the candidate, regardless of the date the funds were received or the
4 payments made. *Id.* Therefore, once Sharpton became a candidate, his principal campaign
5 committee was responsible for reporting all of the campaign-related travel expenses that he
6 incurred during the "testing the waters" period.

7 On April 29, 2003, Sharpton 2004 filed its first required disclosure report, the 2002 Year-
8 End Report, disclosing the Committee's receipts and disbursements from July 1, 2002 through
9 December 31, 2002. The report shows that the Committee made approximately \$24,000 in
10 expenditures during the reporting period, and that each of the disbursements was made in
11 connection with a single fundraising event held by Sharpton in Washington, D.C. However,
12 Sharpton 2004 reported no disbursements for travel expenses for the trip to Washington, D.C. for
13 the fundraiser.¹⁶

14 There is also information to suggest that Sharpton made additional expenditures for travel
15 during the time period covered by the Committee's 2002 Year End Report that were not
16 contained in the Committee's disclosure reports. Press accounts of Sharpton's activity indicate
17 that he traveled to numerous additional cities in connection with his exploratory presidential
18 committee, including trips to New Hampshire and Iowa in February 2002. *See supra* p. 6. Since
19 it is unlikely that Sharpton could have incurred no expenses related to this travel, significant
20 questions exist as to whether the disclosure reports filed by the Committee include all of the

¹⁶ The disbursements included payments for caterers, stage and sound, event space and insurance, entertainment, and door workers. *See* Sharpton 2004, 2002 Year-End Report, Schedule B, filed April 29, 2003. Although the Committee's treasurer filed an amended version of the report on November 28, 2003, the amendments did not affect the reported disbursements.

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1 expenditures made by Sharpton in connection with his efforts to "test the waters" of a potential
2 presidential campaign. As a result, there is a reasonable basis to investigate whether Sharpton
3 engaged in any campaign-related travel without reporting any corresponding disbursements for
4 the travel expenses incurred for that travel.

5 Furthermore, the available information suggests that at least a portion of any unreported
6 campaign-related travel expenses incurred by Sharpton may have been paid for by NAN in
7 violation of 2 U.S.C. § 441b, and/or by Roger Stone in an amount in excess of the Act's
8 contributions limit at 2 U.S.C. § 441a(a)(1)(A). There are reported statements by Archer
9 consultant Michael Pitts acknowledging that campaign trips and NAN trips were "commingled,"
10 and that he scheduled many events across the country that were part campaign and part NAN.

11 Attach. 1 at 4. Sharpton also acknowledges that he traveled extensively for NAN while he was a
12 presidential candidate. Attach. 2 at 2. Although NAN asserts that the allegation that NAN
13 shared events with Sharpton's campaign is baseless, NAN Resp. at 2, Pitts' reported statements,
14 combined with evidence of campaign-related trips for which no travel expenditures were
15 reported by the Committee, provide a reasonable basis to infer that NAN may have subsidized
16 Sharpton's campaign travel by paying for the entirety of Sharpton's travel to campaign-related
17 events. As a result, there is a sufficient basis to investigate whether Sharpton engaged in any
18 campaign-related travel that was paid for by NAN, but not reported or reimbursed by the
19 campaign, in violation of 2 U.S.C. §§ 434(b)(4)(A) and 441b.

20 In addition, there is also information supporting the allegation that Stone paid for certain
21 of Sharpton's travel expenses with Stone's personal credit card. One Sharpton campaign worker
22 reportedly stated that Stone informed him that Sharpton ran up \$18,000 on his credit card last

1 year to cover Sharpton's travel expenses for a trip to California for, among other things, a NAN
2 fundraiser. Attach. 1 at 4. Sharpton reportedly responded to this charge by arguing that the
3 travel expenses charged by Stone were for travel to "our annual event in California."¹⁷ Attach. 1
4 at 5. Again, because there is credible evidence that Sharpton frequently commingled NAN
5 events with campaign activities, there is a sufficient basis to investigate whether Stone made in-
6 kind contributions to Sharpton 2004 by paying for campaign-related travel in amounts that
7 exceed the Act's contributions limits and were not disclosed on the Committee's reports.¹⁸
8 Furthermore, because Sharpton was an officer of NAN, and appears to have consented to most, if
9 not all, of any travel expense disbursements, including those made to reimburse prior campaign
10 expenses charged to his personal American Express card, this Office is recommending that the
11 Commission also make findings against Sharpton personally.

12 Based on the foregoing, this Office recommends that the Commission find reason to
13 believe that Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated
14 2 U.S.C. § 434(b)(4)(A) by not reporting all of its campaign-related expenditures, including, but
15 not limited to, in-kind contributions from NAN and Roger Stone; and that Alfred C. Sharpton,
16 Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated 2 U.S.C. §§
17 441b and by accepting impermissible in-kind corporate contributions from NAN and 2 U.S.C. §

¹⁷ Stone's one page response to the complaint does not discuss the substance of the complaint in detail, but rather makes a general attack on the credibility of the *Village Voice* article cited in the complaint and categorically denies that he violated the Act in any way. See Stone Resp. at 1.

¹⁸ To the extent that any of the expenses incurred by Stone were transportation costs, 11 C.F.R. § 100.79 states that any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate or any political committee of a political party is not a contribution to the extent that: (1) the aggregate value of the payments made by such individual on behalf of a candidate does not exceed \$1,000 with respect to a single election; and (2) the aggregate value of the payment made by such individual on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year. However, because Stone purportedly spent \$18,000 on travel expenses in connection with Sharpton's campaign without receiving reimbursement, this exception would not eliminate the in-kind contribution from Stone. See also 11 C.F.R. § 100.139.

1 441a(f) by accepting excessive in-kind contributions from Roger Stone. This Office further
2 recommends that the Commission find reason to believe that NAN and Alfred C. Sharpton, as an
3 officer of NAN, violated 2 U.S.C. § 441b by making corporate in-kind corporate contributions to
4 Sharpton 2004; and that Roger Stone violated 2 U.S.C. § 441a(a)(1)(A) by making excessive
5 in-kind contributions to Sharpton 2004.

6 2. *Salaries of Campaign Employees and Consultants*

7 The complaint alleges that NAN paid salaries or fees to Sharpton's campaign employees
8 and consultants in violation of 2 U.S.C. § 441b. See Second Am. Compl. at 3-5. The available
9 information suggests that NAN may have subsidized the salaries and fees.

10 Several news accounts reportedly quote employees and consultants of the Sharpton
11 campaign who state that NAN partially paid for their salaries or fees. For instance, former
12 Sharpton campaign staffer Elizabeth Burke reportedly stated that she was paid \$1,000 a week to
13 fulfill her duties as logistical director for all of Sharpton's campaign events, but half of this
14 money was paid by the campaign, and half by NAN.¹⁹ Attach. 1 at 4. Furthermore, Burke is
15 quoted as stating that campaign consultants from Archer Group, Inc. were vastly underpaid
16 compared to the amount of the work that they performed for the campaign. *Id.*

17 In the same article, Archer Group, Inc. consultant Michael Pitts, reportedly confirms that
18 his consulting firm was largely paid by NAN, even though the bulk of the work performed was
19 related to Sharpton's campaign. As discussed above, the article also quotes Pitts as admitting

¹⁹ Sharpton 2004's disclosure reports show that Burke was paid a total of \$5,000 in salary from the campaign, and that these payments were made between October 17, 2003 through November 28, 2003. It is unclear how much NAN paid Burke during this period.

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1 that he knew that events he scheduled for Sharpton's campaign were "commingled" with NAN
2 events. *Id.*

3 Furthermore, it appears that NAN may have paid for the services of the campaign's
4 videographer, Eddie Harris. Harris traveled to campaign events with Sharpton, and the
5 Committee's disclosure reports list some direct payments to Harris for "Campaign Video Taping
6 Service" and report debts outstanding to Mr. Harris for his services, as well as debt owed to
7 Sharpton for Mr. Harris' travel expenses. However, the Committee now argues that the expenses
8 related to Harris were not campaign-related, but were related to the Sharpton's activities as head
9 of NAN.²⁰ Although it is possible that Harris provided services that were both campaign and
10 non-campaign related, even if they were dual purpose, the salary and travel expenses for Harris
11 would still need to be allocated. See 11 C.F.R. § 106.3.

12 The discrepancies in the information suggest that there may have been a commingling of
13 services for the campaign and NAN, without the proper allocation, and provide a basis for
14 investigating whether and/or to what extent the services of Burke, Pitts, Archer Group, Inc., and
15 Harris were campaign-related, and if so, the amount of their compensation, the source of that
16 compensation, and the payment of any campaign-related travel by those individuals.

17 Based on the foregoing, this Office recommends that the Commission find reason to
18 believe that Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated
19 2 U.S.C. § 434(b)(4)(A) by not reporting in-kind contributions from NAN in the form of
20 payments for services of employees and consultants; and that Alfred C. Sharpton, Sharpton 2004
21 and Andrew A. Rivera, in his official capacity as treasurer, violated 2 U.S.C. § 441b by accepting

²⁰ Although the Committee makes this assertion, it has failed to amend its disclosure reports accordingly, and in fact, the Committee has filed reports as recently as January 31, 2005 which still list outstanding debts to Harris for "campaign videotaping services."

1 those impermissible in-kind corporate contributions from NAN. This Office further recommends
2 that the Commission find reason to believe that NAN and Alfred C. Sharpton, as an officer of
3 NAN, violated 2 U.S.C. § 441b by making those in-kind corporate contributions to Sharpton
4 2004.

5 **3. *Hawkins Event***

6 The complaint alleges that LaVan and Wendy Hawkins held a fundraiser for Sharpton in
7 their Atlanta home in early 2003, but the Committee did not report any expenditures or in-kind
8 contributions related to the event. The complaint specifically notes that Hawkins provided
9 Sharpton with transportation to the event on Hawkins' private jet. Compl. at 3. Mr. and Mrs.
10 Hawkins deny that the party was a Sharpton fundraiser, claiming that the party was held in
11 connection with the NBA All-Star game weekend that was held in Atlanta in 2003. Hawkins'
12 Resp. at 1. Hawkins acknowledges that Sharpton traveled aboard the plane from Detroit to
13 Atlanta to attend the party, but argues that he did not send the plane to Detroit specifically to pick
14 Sharpton up. *Id.* at 2. Rather, he was aboard his jet when it traveled from Detroit to Atlanta that
15 weekend because he regularly commutes from Detroit to his home in Atlanta. *Id.*

16 Pursuant to the Act, and its corresponding regulations, any expenses that the Hawkins
17 incurred for a fundraising dinner held on behalf of Sharpton are in-kind contributions to
18 Sharpton's committee and must be reported on the Sharpton Committee's disclosure reports, and
19 comply with the limitations and prohibitions of the Act. 2 U.S.C. §§ 431(8)(A)(i) and 434(b)(2).
20 Also, if Hawkins provided transportation for Sharpton to attend the event, that would also
21 constitute an in-kind contribution to Sharpton 2004 if Hawkins was not reimbursed for the value
22 of the travel. See 11 C.F.R. § 100.93(a)-(c).

1 An *Ebony* magazine article, purportedly based on a first-hand account of the party,
2 provided the following description of the event, "Fresh crab cakes and carved beef tenderloins
3 were washed down by \$200 a bottle Cristal champagne. Hawkins worked the crowd, at times
4 talking business and world politics with guests, at other times, seeming to 'shake down' guests
5 for donations. Sharpton...gave a rousing speech, and guests ponied up their contributions on
6 their way out the door." Kevin Chappell, *How La-Van Hawkins Rose From the Projects to a*
7 *Private Jet and a Multi-Million-Dollar Empire*, EBONY, Apr. 2003, at 42. Furthermore, the
8 complaint points out that \$8,000 in contributions from Hawkins Food Group employees were
9 reported as having been received by Sharpton 2004 around the time of the fundraiser. Compl. at
10 4. Although the timing of the contributions from the Hawkins and the other Hawkins Group
11 employees does not conclusively show that the Hawkins' event was a Sharpton fundraiser, the
12 first hand account of the party contained in the magazine article, in conjunction with the
13 contributions, does provide a basis to investigate whether the party was in fact a fundraiser for
14 Sharpton's campaign.

15 LaVan and Wendy Hawkins each reached their contribution limit to Sharpton 2004 by
16 making separate \$2,000 contributions to Sharpton on March 12, 2003. See 2 U.S.C. §
17 441a(a)(1)(A). Although the cost of voluntarily provided invitations, food and beverages are not
18 contributions if they do not exceed \$1,000 with respect to any single election, see 11 C.F.R. §
19 100.77, the description of the event suggests that the cost would have far surpassed the \$1,000
20 limit. Furthermore, there is no information to suggest that Sharpton reimbursed Hawkins for the
21 value of the transportation provided to Sharpton for travel to Atlanta for the party that appears to
22 have been a fundraising dinner for Sharpton's federal candidacy. Whether Mr. Hawkins was

1 already planning to make the plane trip is not relevant, as it is the benefit provided to the
2 Sharpton campaign by not having to pay for Sharpton's travel expenses that results in an in-kind
3 contribution.

4 Based on the foregoing, this Office recommends that the Commission find reason to
5 believe that LaVan Hawkins and Wendy Hawkins violated 2 U.S.C. § 441a(a)(1)(A) by making
6 excessive in-kind contributions to Sharpton 2004 in connection with a fundraising dinner held in
7 their home.²¹ This Office further recommends that the Commission find reason to believe that
8 Alfred C. Sharpton, Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer,
9 violated 2 U.S.C. § 441a(f) by accepting excessive in-kind contributions in connection with a
10 fundraising dinner held to benefit Sharpton's campaign; and finds reason to believe that Sharpton
11 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated 2 U.S.C. §
12 434(b)(2)(A) by not reporting those contributions.

13 **4. Free Use of Cars**

14 The complaint alleges that Sharpton received free use of cars from a car dealership
15 in South Carolina for transportation to and from campaign events held in that state. However,
16 the complaint provides no details that would allow us to evaluate the allegation. The only
17 support for this allegation is a single sentence in a New York Times article, noting simply that
18 "[t]he Sharpton campaign also did not report that it had received the free use of cars from a car
19 dealer in South Carolina." Michael Slackman, *Sharpton's Bid Renews Queries Over Finances*,
20 N.Y. TIMES, Jan. 10, 2004 at A1. The article provides no further detail on the allegation.

²¹ While the article on which the allegation is based states that the jet was a private jet belonging to Mr. Hawkins personally, it is unclear whether the jet was owned by Hawkins Food Group, Inc. If the jet was an asset belonging to Hawkins Food Group, Inc., a corporate contribution may have resulted from Sharpton's travel on the plane. See 2 U.S.C. § 441b. If discovery directed to Mr. Hawkins indicates any use of corporate resources, this Office will make appropriate recommendations in a subsequent report.

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1 **Sharpton's response to the complaint does not comment on this allegation. Absent**
2 **further information, there does not appear to be enough information on which to base an**
3 **investigation with respect to the free use of cars from an unnamed car dealership in South**
4 **Carolina. Nonetheless, we are deferring a recommendation that the Commission find no reason**
5 **to believe as to whether the Committee received an excessive or prohibited unreported**
6 **contribution through the free use of cars because any investigation as to the other allegations**
7 **potentially may reveal information relevant to this allegation. Therefore, this Office recommends**
8 **that the Commission take no action at this time with respect to the allegation that Alfred C.**
9 **Sharpton, Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated any**
10 **provisions of the Act or its corresponding regulations by accepting the free use of automobiles**
11 **from a car dealership.**

12 **B. Loans from Stone to NAN**

13 **The Amended Complaint and 2nd Amended Complaint allege that Roger Stone subsidized**
14 **Sharpton's campaign by loaning over \$200,000 to NAN, for the purpose of directing the money**
15 **into Sharpton's campaign by paying for Sharpton's travel expenses and campaign consultants.**

16 **The Act provides that a contribution includes a loan made by a person for the purpose of**
17 **influencing any election for Federal office. 2 U.S.C. § 431(8)(A). Furthermore, 11 C.F.R. §**
18 **100.52(b) provides that a loan that exceeds the contribution limits of 2 U.S.C. § 441a shall be**
19 **unlawful whether or not it is repaid, and further, that a loan is a contribution at the time it is**
20 **made and is a contribution to the extent that it remains unpaid. Therefore, if Stone made over**
21 **\$200,000 in loans to Sharpton for the purpose of funding campaign expenses, Stone has**
22 **exceeded the Act's contribution limit at 2 U.S.C. § 441(a)(1)(A). See 2 U.S.C. § 441a(a)(8).**

1 The complaint's allegations are supported by purported quotes from a news article in
2 which a Sharpton campaign employee, Elizabeth Burke, stated that Archer Group, Inc. campaign
3 consultants Pitts and Coleman were told by Stone that Stone made "at least two loans in six
4 figures to NAN, totaling well over \$200,000." Attach. 1 at 4. Furthermore, the article cites
5 another Sharpton campaign worker as stating that Stone told him that he took a \$270,000
6 promissory note from Sharpton. *Id.* The news article is purportedly based on first-hand
7 interviews with these individuals, and provides sufficient detail on which to base an investigation
8 into whether Stone loaned funds to NAN for the purpose of allowing NAN to fund Sharpton's
9 campaign activities and whether such loans were excessive contributions pursuant to 2 U.S.C. §§
10 441a(a)(1)(A) and 441a(a)(8).

11 Therefore, this Office recommends that the Commission find reason to believe that Roger
12 Stone violated 2 U.S.C. § 441a(a)(1)(A) by making excessive in-kind contributions to Sharpton
13 2004, and that Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated
14 2 U.S.C. §§ 441a(f) and 434(b)(2)(A) by accepting and not reporting such contributions.

15 **C. Sharpton 2004 Reporting Deficiencies**

16 Sharpton 2004's filed disclosure reports raise several additional questions about the
17 Committee's receipts and disbursements.²² For instance, in the Committee's April Monthly

²² In addition, in 2004, the Sharpton Committee's treasurer did not file seven of the Committee's required monthly disclosure reports in a timely manner. *See* 2 U.S.C. § 434(a)(3)(A)(i). More specifically, the Committee's 2004 February, April, May, June, October, November and December reports were filed after the 20th day of the month in which they were respectively due. The 2004 February monthly report was filed on February 21; the April monthly report was filed on April 28; the May monthly report was filed on June 25; the June monthly report was filed on June 25; the October monthly report was filed on October 22; the November monthly report was filed on January 31, 2005; and the December monthly report was filed on January 31, 2005. The late filings of the April and May, monthly reports are being processed through the Administrative Fines Program. The Commission approved the Reports Analysis Division's Administrative Fines Final Determination Recommendations dated August 12, 2004, and September 17, 2004, assessing a \$1,600 fine for the late April Monthly and \$175 for the May monthly, respectively.

MUR 5408
First General Counsel's Report

1 Report, the Committee reported a total of approximately \$10,600 of activity. See Sharpton 2004
2 April Monthly, Detailed Summary, filed April 28, 2004. However, the Committee amended the
3 report several days later, increasing the amount of its disbursements by \$100,000. See Sharpton
4 2004 April Monthly, Amended, filed May 7, 2004, Detailed Summary. The revised amount
5 appears to be the result of an additional disbursement added to the amendment for a loan
6 payment of \$100,000 that was not included in the original report. See Sharpton 2004 Amended
7 April Monthly, Schedule C, filed May 7, 2004. It appears that, as a result of that payment, the
8 Committee reported a negative cash on hand balance of almost \$100,000 on its May, June, July
9 and August monthly reports. This raises the question of where the funds used to pay for the bank
10 loan came from and whether a contribution resulted, either from the bank to the Committee, or
11 from some other source that provided the funds to make the payment to the bank. Furthermore,
12 the Committee's reports indicate that the bank loan in question is due "upon demand". Pursuant
13 to 2 U.S.C. § 431(8)(B)(vii)(II) a bank loan made to candidate must be subject to a due date or
14 amortization schedule.

15 In addition, to be eligible for public funds, a candidate must certify that he has not and
16 will not incur expenditures in excess of \$50,000 on behalf of his campaign. 11 C.F.R. §§
17 9033.2(b)(2) and 9035.2. Although Sharpton did submit such a certification, a Commission
18 investigation showed that Sharpton incurred \$116,976 in expenditures on behalf of his campaign
19 as of January 2, 2004, the date he submitted his application for matching funds. See Statement of
20 Reasons in Support of Final Determination to Suspend Matching Funds (Apr. 29, 2004).
21 Moreover, the amount in excess of Sharpton's personal expenditure limitation continued to
22 increase after that date and totaled \$169,198 as of March 2, 2004, more than three times the

1 \$50,000 limitation and \$119,198 in excess of the limitation. *Id.* Sharpton was or should have
2 been aware of expenditures on behalf of his presidential campaign because the expenses were
3 incurred on his personal credit card.²³

4 In its response to the initial determination to suspend public funds, the Committee
5 claimed that its disclosure reports were incorrect because the expenditures were rough estimates
6 of campaign-related expenditures made by Sharpton, and included a host of expenses that were
7 not in fact campaign-related. According to the Committee, "Had the committee known that the
8 reports would jeopardize its eligibility for matching funds, it would have devoted the resources
9 necessary to gather the appropriate documentation and conduct a precise calculation of campaign
10 versus non-campaign-related expenditures." Attach. 2 at 2.

11 Based on the foregoing, this Office recommends that the Commission find reason to
12 believe that Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated
13 2 U.S.C. § 434(b) by not reporting the source of the money used to make the bank payment
14 disclosed on the Committee's Amended April Quarterly Report;²⁴ and knowingly and willfully
15 violated 2 U.S.C. § 434(b)(4) when it knowingly submitted disclosure reports with inaccurate
16 information regarding its campaign expenditures.

²³ The Commission did not withhold certification and matching payments pending the results of the investigation because Sharpton's threshold submission was adequate and did not contain "patent irregularities suggesting the possibility of fraud," and the policy of the certification process is to "provide prompt payments to eligible candidates." See *Committee to Elect Lyndon LaRouche v. Federal Election Commission*, 613 F.2d 834, 841-842 (D.C. Cir. 1979); 11 C.F.R. § 9039.3(a)(3).

²⁴ If an investigation reveals that an impermissible source was used to make the payment and/or that an excessive contribution to Sharpton 2004 resulted, this Office will make appropriate additional recommendations in a subsequent report.

IV. PROPOSED DISCOVERY

This Office seeks authorization to issue appropriate interrogatories, document subpoenas, and deposition subpoenas to respondents and witnesses in this matter.

Accordingly, this Office requests that the Commission authorize the use of compulsory process in this matter, including the issuance of appropriate interrogatories, document subpoenas, and deposition subpoenas, as necessary.

V. RECOMMENDATIONS

1. Find reason to believe that NAN and Alfred C. Sharpton, as an officer of NAN, violated 2 U.S.C. § 441b by making impermissible corporate contributions to Sharpton 2004.
2. Find reason to believe that Alfred C. Sharpton, Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated 2 U.S.C § 441b by accepting corporate in-kind contributions from NAN.
3. Find reason to believe that Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated 2 U.S.C. § 434(b).
4. Find reason to believe that Roger Stone, LaVan Hawkins and Wendy Hawkins violated 2 U.S.C. § 441a(a)(1)(A) by making excessive in-kind contributions to Sharpton 2004.
5. Find reason to believe that Alfred C. Sharpton, Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive contributions from Roger Stone, LaVan Hawkins and Wendy Hawkins.
6. Take no action at this time with respect to the allegation that Alfred C. Sharpton, Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated the Act or its corresponding regulations by accepting the free use of automobiles from a car dealership.
7. Find reason to believe that Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, knowingly and willfully violated 2 U.S.C. § 434(b)(4)(A) by submitting disclosure reports with inaccurate expenditure information.
8. Approve the attached Factual and Legal Analyses.
9. Approve the use of compulsory process in this matter, including the issuance of appropriate interrogatories, document subpoenas, and deposition subpoenas, as necessary.

10. Approve the appropriate letters.

4/20/2005
Date:

Lawrence H. Norton
General Counsel

By: 
James A. Kahl
Deputy General Counsel


Rhonda J. Vosdigh
Associate General Counsel


Mark D. Shonkwiler
Assistant General Counsel


Kathleen M. Guith
Attorney

Attachments:

(1) Wayne Barrett, *Sleeping With the GOP*, VILLAGE VOICE, Feb. 5, 2004.

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NEWS

Sleeping With the GOP

A Bush Covert Operative Takes Over Al Sharpton's Campaign

by Wayne Barrett with special reporting by Adam Hutton and Christine Lagerle

February 2nd, 2004 8:20 AM

Write to Us
E-Mail Story
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Roger Stone, the longtime Republican dirty-tricks operative who led the mob that shut down the Miami-Dade County recount and helped make George W. Bush president in 2000, is financing, staffing, and orchestrating the presidential campaign of Reverend Al Sharpton.

Though Stone and Sharpton have tried to reduce their alliance to a curiosity, suggesting that all they do is talk occasionally, a Voice investigation has documented an extraordinary array of connections. Stone played a pivotal role in putting together Sharpton's pending application for federal matching funds, getting dollars in critical states from family members and political allies at odds with everything Sharpton represents. He's also helped stack the campaign with a half-dozen incongruous top aides who've worked for him in prior campaigns. He's even boasted about engineering six-figure loans to Sharpton's National Action Network (NAN) and allowing Sharpton to use his credit card to cover thousands in NAN costs—neither of which he could legally do for the campaign. In a wide-ranging Voice interview Sunday, Stone confirmed his matching-fund and staffing roles, but refused to comment on the NAN subsidies.

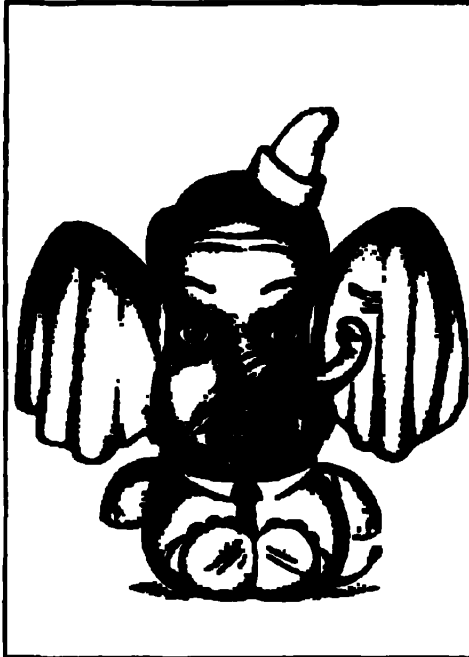


Illustration: Bill Meyer

Sharpton denounced the Voice's inquiries as "phony liberal paternalism," insisting that he'd "talk to anyone I want" and likening his use of Stone to Bill Clinton's reliance on polster Dick Morris, saying he was "sick of these racist double standards." He did not dispute that Stone had helped generate matching contributions and staff the campaign. Asked about the Stone loans, he conceded that he "asked him to help NAN," but attributed the financial aid to his and Stone's joint "fight against the Rockefeller drug laws," adding: "If he did let me use his credit card to cover NAN expenses, fine." The finances of NAN and the Sharpton campaign have so merged in recent months that they have shared everything from contractors to consultants to travel expenses, though Sharpton insists that these questionable maneuvers have been done in compliance with Federal Election Commission regulations.

Stone's Miami-based Fairbanks Limited also set up an e-mail service called Sharpton-at-the-beach, which has issued dozens of releases highlighting campaign achievements before news of them was posted on the campaign website. His impact on strategy even included giving Sharpton the ax handle he wielded at the July NAACP convention, which Sharpton used as a symbol of former Georgia Democratic governor Lester Maddox, who became famous in the '60s by chasing blacks from his restaurant with one. Sharpton stirred the crowd, yelling from the podium: "Anytime we can give a party 92 percent of our vote and have to still beg some people to come talk to us, there is still an ax-handle mentality among some in the Democratic Party." Sharpton said he doesn't remember whether Stone gave him the ax handle. Stone declined to comment, but has boasted to friends that he came up with the theatrics.

Attachment

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Recruited in 2000 by his friend James Baker, the former secretary of state, to spearhead the GOP street forces in Miami, Stone is apparently confident that he can use the Democrat-bashing preacher to damage the party's eventual nominee, just as Sharpton himself bragged he did in the New York mayoral campaign of 2001. In his 2002 book, *Al on America*, Sharpton wrote that he felt the city's Democratic Party "had to be taught a lesson" in 2001—insisting that Mark Green, who defeated the Sharpton-backed Fernando Ferrer in a bitter runoff, had disrespected him and minorities. Adding that the party "still has to be taught one nationally," he warned: "A lot of 2004 will be about what happened in New York in 2001. It's about dignity." In 2001, Sharpton engaged in a behind-the-scenes dialogue with campaign aides to Republican Mike Bloomberg while publicly disparaging Green.

Sharpton recently rebuffed an appeal by DNC chair Terry McAuliffe to join a post-primary March 25 event to support the nominee, sending a letter saying he would attend but would also "continue to campaign vigorously until the last day of the convention." He has also repeatedly vowed that he would speak on prime-time TV during the July convention, saying party leaders would decide "whether that's inside the hall or out in the parking lot," threatening demonstrations unless granted exposure guaranteed to turn off many voters. Stone terminated a 45-minute Voice interview shortly after he was asked about any involvement he might have had with the letter to McAuliffe, saying he was "not characterizing my conversations with Sharpton," though he freely did in a recent *Times* interview.

While Bush forces like the Club for Growth were buying ads in Iowa assailing then front-runner Howard Dean, Sharpton took center stage at a debate confronting Dean about the absence of blacks in his Vermont cabinet. Stone told the *Times* that he "helped set the tone and direction" of the Dean attacks, while Charles Halloran, the Sharpton campaign manager installed by Stone, supplied the research. While other Democratic opponents were also attacking Dean, none did it on the advice of a consultant who's worked in every GOP presidential campaign since his involvement in the Watergate scandals of 1972, including all of the Bush family campaigns. Asked if he'd ever been involved in a Democratic campaign before, Stone cited his 1981 support of Ed Koch, though he was quoted at the time as saying he only did it because Koch was also given the Republican ballot line.

Just as Stone has a history of political skulduggery, Sharpton has a little-noticed history of Republican machinations inconsistent with his fiery rhetoric. He endorsed Al D'Amato in 1986, appeared with George Pataki two days before his 1994 race against Mario Cuomo, invited Ralph Nader to his headquarters on the eve of the 2000 vote, befriended Bill Powers when he was the state GOP chair, and debuted as a preacher in the church of a black minister who was also a Brooklyn Republican district leader. The current co-chair of his presidential campaign gave as much to Bush-Cheney as he did to Sharpton, and many of the black businessmen supporting this campaign or NAN have strong GOP ties. His conduit in the Bloomberg campaign, Harold Doley III, was the son of the first black with a seat on Wall Street. A major NAN backer over the years, Doley Jr. was appointed to positions in five Republican administrations, including Bush's.

Stone, whose Miami mob even jostled a visiting Sharpton during the recount, said recently in *The American Spectator* that if Sharpton were to run "as an independent" in the 2006 Hillary Clinton race, she would be "sunk," implicitly suggesting that this operation may be a precursor to another Stone-Sharpton mission. In his book *Too Close to Call*, New Yorker columnist Jeffrey Toobin exposed Baker's tapping of Stone, as well as Stone and his Cuban wife Nydia's role in firing up Cuban protesters, with Stone calling the shots the day of the shutdown over a walkie-talkie in a building across the street from the canvassing board headquarters. The Stone mob was chanting Sharpton's slogan "No Justice, No Peace" when the board stopped the count, which was universally seen as the turning point in the battle that made Bush president.

The Washington Post recently reported that the Bush campaign was planning a special advertising campaign targeting black voters, seeking as much as a quarter of the vote, and any Sharpton-connected outrage against the party could either lower black turnout in several key close states, or move votes to Bush. Both were widely reported as the consequences of Sharpton's anti-Green rhetoric in 2001, a result Sharpton celebrated both in his book and at a Bronx victory party on election night.

A Mysterious Marriage

The Stone involvement in the Sharpton campaign began in early March at a lunch at Gallagher's, a midtown steak house that Stone frequents. Stone and Sharpton do not

Attachment 1

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disagree that two mutual friends, Democratic consultant Hank Sheinkopf and anti-Rockefeller-drug-law activist Randy Credico, helped to arrange it. Sheinkopf and Credico say Stone asked them to arrange the meeting, and Credico recalls "repeated pressure" from Stone to put it together. Stone says both are "mistaken" and that Sheinkopf suggested it to Sharpton and that Sharpton sought the meeting. Sharpton was scheduled at one point to fly to Miami for the get-together, says Credico, but canceled. Sheinkopf says it was "certainly Stone who initiated it," though he agreed that "Sharpton needed to talk to people who know how to do presidential campaigns."

Sharpton, who brought lawyer Sanford Rubinstein and NAN director Marjorie Harris Smilie to the lunch, said everyone present—including Sheinkopf and Stone—believed he needed to hire experienced staff. Stone discussed the daunting requirement of raising at least \$5,000 in 20 states to obtain federal matching funds and outlined some of "the things he had to do," according to Sheinkopf, to achieve it. Credico recalls that Stone "mentioned Halloran's name," dumping on the inexperienced consultant, Roberto Ramirez, who Sharpton was then using. "They had a natural affinity," Sheinkopf said, "and agreed to continue talking."

Credico said Stone explained his interest in working with Sharpton by saying that they had "a mutual obsession: We both hate the Democratic Party." Stone told Credico that he "would have some fun with Sharpton's campaign" and "bring Terry McAuliffe to his knees." Stone, Credico, and Sheinkopf walked to Stone's apartment after the lunch, and Stone was elated with the tenor of the meeting.

Sharpton was already negotiating a deal with Frank Watkins, who ran both of Jesse Jackson's presidential campaigns, so he took no immediate action on Stone's suggestions. Halloran was busy anyway with another Stone-arranged assignment—running the parliamentary campaign for the United Bermuda Party, ironically the white-led party seeking to unseat the island's first black government. Halloran had also managed a Stone-run campaign in New York in 2002, spending nearly \$65 million of billionaire Tom Golisano's money and getting the Independence Party candidate a mere 14 percent of the vote in the gubernatorial race. Stone, whose firm represented the prior Bermuda government, did initial work in the 2003 race there and left, recommending Halloran. Sharpton says that when the Bermuda job was over in September, he hired Halloran to work under Watkins, but that when he discovered that Jackson and Watkins were "sabotaging my campaign" and were really with Howard Dean, he replaced Watkins with Halloran.

Halloran is a capable operative who claims he did advance work in the first Clinton campaign, and that he worked as a consultant in a statewide Democratic race in Georgia and as a volunteer for Al Gore during the recount battle. He has become so close to Stone over the last two years, however, that he stays at Stone's 40 Central Park South apartment when he's in New York working for Sharpton. Halloran and his wife celebrated Stone's 50th birthday with him and his wife last year, and the two operatives talk virtually every day. By his own account, Halloran made so much money in the Golisano and Bermuda campaigns, he has so far worked for Sharpton since September 4 without receiving a single cent in pay.

Sharpton's latest FEC filing lists him as collecting nearly \$5,000 in expense reimbursement. The campaign also owes him \$50,000 in pay through December 31. It's the only time he can recall running a campaign on trust. Since Sharpton 2004 now owes (\$348,450) almost as much as it's raised (\$382,766), and since the Rev has left a notorious trail of other liens in his wake, it's a peculiar level of trust.

Angels for Al

The same paucity of payments is true for a collection of other Stone-Halloran associates working in the campaign. Ernest Baynard, another Golisano campaign veteran who helped set up the Sharpton-at-the-beach e-mail address and does press and research for the campaign, hasn't been paid a cent and is listed as a \$20,000 debtor. Ironically, while working for Sharpton, Baynard's Meridian Hill Strategies has been simultaneously retained by another campaign Stone helped launch, arch-conservative Larry Klayman's run for the U.S. Senate in Florida. Two other ex-Golisano consultants, Joe Ruffin and Andre Johnson, ran Sharpton's campaign in the Washington, D.C., primary last month, and unlike Halloran and Baynard, were actually paid for it, a total of \$12,900. (Johnson is owed an additional \$3,500.)

The Archer Group, a San Francisco-based consulting company that reeled in \$246,000

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from Golisano, dispatched its two top executives, Michael Pitts and Ron Coleman, to New York back in September. In all this time, the company has only been paid \$5,000 by the campaign for "logistics." The campaign filing lists the company as owed only another \$5,000 for "rent"—on an office/ apartment at 50 West 34th Street, where the company used to run its Sharpton operations. Pitts, whom Stone gratuitously described as "a 300-pound black Democratic operative," says they were recruited by Halloran "to do a national field operation plan." Admitting that it makes him "uneasy" that Stone is so involved in the Sharpton campaign, Pitts says he nonetheless participated in at least five strategy sessions with Stone to plan field operations, labeling him a "Mr. Know-It-All Kind of Guy." Calling Stone's involvement "sinister," Pitts simultaneously dismissed it, saying Stone "just wants to be disruptive" and "likes to be in the shit."

All the other payments to Archer were made not by the campaign, but by NAN, which Stone has reportedly been quietly subsidizing. Pitts acknowledged that they signed a \$20,000-a-month contract with Sharpton, but says the price was subsequently reduced. He says they were paid entirely by NAN until December, ostensibly to run a voter registration operation. But Pitts concedes that all they did was a registration plan, never any registration, and that they began "to focus more on scheduling" for the Rev, saying that many of the events they scheduled across the country were "shared events," part campaign and part NAN.

"We knew some of these things were commingled," he said. "We heard from Charles that it had been ruled that our arrangements had gotten a bit too hazy." Was there, he asked, "a hazy thing" about being paid by NAN to do scheduling for the campaign? "Yeah, you get caught up in the middle of it."

In early December, Pitts says they went on the campaign payroll. But by the end of December, the 34th Street office was vacated and Coleman was back in California. Pitts stayed with it, spending most of the last few weeks in South Carolina, and moving on this week to Michigan, where Sharpton plans a major effort. Elizabeth Burke, another Golisano aide, worked with Coleman and Pitts, first at Sharpton's campaign office at the hospital workers union, and then at the Archer apartment. She says the \$5,000 payment to Archer is "laughable" compared to the amount of campaign work the company did. Burke was paid \$1,000 a week, half by NAN and half by the campaign, and says she did "all the logistics" for him across the country, "working with debate organizers and creating campaign events."

Burke says Pitts and Coleman told her that Stone made "at least two loans in six figures to NAN, totaling well over \$200,000"—and that they were all "stunned to hear about it" because Stone, she said, "has to know that he'll never get it back." She also recounted how in December, Sharpton personally wrote a \$10,000 check for Archer's services that bounced. "We found out the account didn't exist; it was a closed account." The campaign and NAN, which she calls "a shell," were in such disarray that "the only way we were staying afloat was through other sources that might not be legal, Republican sources."

Credico, who's remained in close touch with Stone throughout the Sharpton adventure and who heard the Maddox story from him, says Stone told him he took a \$270,000 promissory note from Sharpton. Stone also told Credico that Sharpton ran up \$18,000 on his credit card last year, covering some of the costs of a California trip, including a fundraising dinner thrown by NAN. "I can't believe Roger's still involved with Sharpton," Credico said. "All he does is complain to me about Sharpton owing him all this money. Last time we had dinner, I told him, 'Why don't you just get out of it?' Credico has his own complaints about the campaign's finances, saying that Stone and Halloran promised to send him to Iowa but never did, setting him back the price of an airplane ticket from California when he rushed back to New York.

Asked about the \$270,000 and the \$18,000 by the Voice, Stone replied: "Go badger somebody else." Sharpton said the Voice should get NAN's IRS filings for the payments,

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knowing that they do not detail revenue sources and don't have to be filed for months. "That was our annual event in California," he said, insisting only that any possible credit card purchases by Stone were NAN-related exclusively. "I asked a lot of people to help." He said the same thing about the loans: "I asked him in terms of the network." The NAN loans are a potential illegal end-run around FEC limits, as are his donated services, which are an in-kind contribution to the campaign from a professional consultant.

The combination of the unpaid or underpaid services of Stone, Malloran, Baynard, Archer, et al., together with the NAN subsidies, paint a picture of a Sharpton operation that is utterly dependent on his new ally Stone, whose own sponsors are as unclear as ever. Stone is friendly with a number of Bush aides, from Baker to powerhouse GOP Washington lobbyists like Wayne Berman and Scott Read. Berman has received a seven-figure finder's fee from Carlyle, the D.C.-based equity engine that includes Baker. Former president Bush worked for the Carlyle Group until late last year. Malloran's wife, Chris Trampf, works at Carlyle, though Malloran insists she is merely a back-office staffer.

Blackface Bucks

Stone acknowledged that he "helped Sharpton" in the campaign's desperate attempt in November and December to reach the \$5,000 matching-fund threshold in 20 states. "I collected checks," he said. "That's how matching funds is done. I like Al Sharpton. I was helping a friend." Sharpton was the last candidate to meet the December 31 deadline and is immediately seeking more than \$150,000 in federal funding. If the FEC, which has been reviewing his application for a month, determines that he meets the threshold, Sharpton will be eligible for more.

But he only submitted 21 states, and at least one, Illinois, is unlikely to be certified, since it came in at \$5,100 and contains two \$250 contributions from the same individual. Only single contributions of up to \$250 can count toward the threshold. That means Sharpton's funding—against which he has already taken a \$150,000 bank loan—is the lifeblood of the campaign. Stone and Malloran allies, including staffers Johnson and Ruffin, kicked in the last four \$250 contributions in D.C., all on December 30 and 31, that gave Sharpton a perilous \$5,332 total.

In Florida, Stone's wife, Nydia; son Scott; daughter-in-law Laurie; mother-in-law Olga Bertran; executive assistant Dianne Thorne; Tim Suereth, who lives with Thorne; and Malloran's mother, Jane Stone (unrelated to Roger, he says), pushed Sharpton comfortably over the threshold, donating \$250 apiece in December. Jeanmarie Ferrara, who works at a Miami public relations firm that joined Stone in the '90s fight on behalf of the sugar industry against a tax to resuscitate the Everglades, also gave \$250, as did the wife of the firm's name partner, Ray Cases. Another lobbyist, Eli Feinberg, a Republican giver appointed to a top position by the Republican state insurance commissioner, did \$250.

Clive and Lenore Baldwin, entertainers known for their impersonations of Al Jolson and Sophie Tucker, came in at the matchable maximum as well. Stone adopted their act years ago, producing a Clive Baldwin recording, and putting him onstage at the 1996 Republican National Convention. In a *Times* tale of a recent Baldwin appearance in Long Island, he wound up being "shown the door" after a "confrontation" with angry black caterers. (Apparently Stone could not locate Amos & Andy for a contribution.)

Two vendors for a current campaign assisted by Stone—the senate campaign of Larry Klayman—also donated in Florida, with public relations consultant Michael Caputo and Tasmania Productions owner Teddi Segal donating \$250 (she says she doesn't know Stone). Caputo, ironically, was Stone's spokesman in 1996, when Stone was embroiled in the most embarrassing scandal of his career—the much ballyhooed revelation that he and his wife had advertised, with photos, for swinging partners in magazines and on the Internet. Caputo has, until recently, been handling press inquiries for Klayman, an evangelical who led the sex assault in Washington on Bill Clinton and is running a moral-majority, retake-Cuba campaign for senate. Stone volunteered behind the scenes for Klayman too, and several Stone-tied vendors, like Baynard and pollster Fabrizio, McLaughlin & Associates, have been retained.

In fact, the treasurer of the Klayman campaign, Paul Jensen, a top Bush administration transportation official, joined his wife, Pamela, in making \$250 donations on December 30 to Sharpton, helping get him over the threshold in a third state. Jensen contributed to Sharpton, who favors a federal law certifying civil unions for homosexuals, even though the lawyer has filed suits in 16 states seeking to defrock Presbyterian ministers who've "violated

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their vows" by ordaining gays. Stone has been in frequent touch with Jensen and Klayman in recent months and said that he might have "told Halloran to call him for a check" or asked himself, as he indicated he might have with many others on this list of anomalies.

Though Sharpton conceded that he asked Stone to "help raise the matching funds," he said "everybody helped me qualify," adding that "it's ridiculous" to suggest that Stone's role, though he concedes it made a difference in some states, was of any overall significance. He insisted, accurately, that the bulk of his contributions were from black supporters across the country, attracted to his candidacy. But that does not make any less indispensable the critical, targeted fundraising Stone engineered. Halloran traveled through Georgia, Mississippi, and Alabama in a last-ditch December effort to nail down enough to meet the threshold.

Sharpton and Stone are, in a sense, brothers under the skin, outlandish personalities too large to be bound by the constraints that govern the rest of us. Stone was the registered agent in America for Argentina's intelligence agency, sucking up spy novels; Sharpton was a confidential informant for the FBI, wiring up on black leaders for the feds. Stone is a fashion impersonator, dressing like a hip-hop dandy; Sharpton, having shed his gold medallion and jogger suits, now looks like a smooth banker. Stone was involved in Watergate at the age of 19; Sharpton was a boy-wonder preacher. Stone's mentor from the days of his youth was Roy Cohn; Sharpton's was James Brown. Sharpton is a minister without a church; Stone is almost as rootless, having left the powerhouse Washington firm he helped form years ago. Each reinvents himself daily, if not hourly, as if nothing in their past matters.

For all his brilliance and personal charm, Sharpton's political bombast has always been more spectacle than belief. He is so determined to reach Jesse's heights he's sunk lower than ever, mining black America for Bush's secret agent. He recently ate dinner in a Manhattan restaurant with Stone and found himself sitting opposite former FBI agent Joe Spinelli, who flipped him after picking him up in a mob video sting. All the ironies of his life are coming home to roost, just as he stands in a brighter limelight than he's ever enjoyed. The Rev needs to get some religion.

Additional research: Andrew Burtless, Tommy Hallissey, Cristl Hegranes, Brian O'Connor, Abigail Roberts, Catherine Shu, and Jennifer Suh

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Attachment 1

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